

Ordinance No. 2019-06

**An ordinance amending Minnetonka City Code Section 300.25,
regarding the shoreland overlay district**

The City Of Minnetonka Ordains:

Section 1. Section 300.25 of the Minnetonka City Code, regarding the shoreland overlay district, is amended as follows:

SECTION 300.25. SHORELAND DISTRICT.

1. Purpose.

The purpose of the shoreland district is to recognize, preserve, protect and enhance the environmental, recreational and hydrologic resources and functions of the city's lakes and tributary creeks by regulating the use of both the public waters and adjacent land. In order to promote the general health, safety and welfare, certain protected waters in the city have been given a shoreland management classification by the Minnesota department of natural resources and the city of Minnetonka. The intent of the shoreland district is to apply the regulations and standards to public waters and adjacent land as an overlay zone, further regulating the use of land as allowed by other districts of this ordinance.

2. Classifications of Protected Shoreland Areas.

The Minnesota department of natural resources has assigned a shoreland management classification status to public water. Public water classifications as defined by the Minnesota Department of Natural Resources and the city of Minnetonka include the following:

- a) Recreational Development. Recreational development lakes (RD) are characterized by moderate levels of recreational use and existing development. Many of these lakes have capacities for accommodating additional development and recreational use.
- b) General Development. General development lakes (GD) have high levels and mixes of existing development. These lakes are extensively used for recreation and heavily developed around the shore.

- c) Tributary Creeks. Tributary creeks (TR) consist of all watercourses mapped in the Minnesota department of natural resources public waters inventory including the Minnehaha Creek, the Nine Mile Creek, the south fork of the Nine Mile Creek, the Purgatory Creek including both branches, and the public watercourse that flows out of Glen Lake. These creeks include those defined as tributary rivers by the Minnesota department of natural resources.
- d) The following classifications of public waters have been assigned by the Minnesota department of natural resources and the city of Minnetonka:

Lake Name	Classification	Lake Name	Classification
Windsor (27-82P)	RD	Wing (27-91P)	RD
Libbs (27-85P)	GD	Rose (27-92P)	RD
Shavers (27-86P)	RD	Glen (27-93P)	RD
Mud (Minnetoga) (27-88P)	RD	Lone (27-94P)	RD
Shady Oak (27-89P)	RD	Minnetonka (27-133P)	GD
Holiday (27-90P)	GD	Crane (27-734P)	GD
Gleason (27-95P)	RD		

Tributary Creek	Classification
Minnehaha Creek (27-036a)	TR
Purgatory Creek (27-054a)	TR
Purgatory Creek, Eastern fork (27-055a)	TR
Purgatory Creek, Western fork (27-056a)	TR
Nine Mile Creek (27-050a)	TR
Nine Mile Creek, Southern fork (27-051a)	TR
Unnamed tributary flowing south from Glen Lake (27-052a)	TR

- ~~e) The following map illustrates the public waters to which the shoreland ordinance applies:~~

3. Description of Shoreland District.

The shoreland district consists of:

- a) land containing or abutting public waters and assigned a shoreland management classification by the Minnesota Department of Natural Resources or the city of Minnetonka; and
- b) land located within the following distances from public water:
 - 1) 1,000 feet from the ordinary high water level (OHWL) of a lake;
 - 2) 300 feet from OHWL (top of bank) of a tributary creek, or the upland edge of the floodplain designated by ordinance, whichever is greater.

Properties or portions of properties may be exempt from the requirements of the shoreland district if the drainage and runoff patterns from the properties are directed outside of the drainage basin of the public water as a result of a natural topographic divide. This exemption determination will be made by the city engineer.

4. Permitted uses at or Below the Ordinary High Water Level and within Shore and Bluff Impact Zones.

At or below the ordinary high water level, and within shore and bluff impact zones, no land may be used except for one or more of the following uses:

- a) residential yards;
- b) wildlife and nature preserves;
- c) public and private parks;
- d) pervious hiking and skiing trails;
- e) public utilities;
- f) public and ~~private approved~~ flood control structures, ponding and drainage facilities and associated accessory appurtenances if the city determines that there is no other viable alternative as approved by the city engineer;
- g) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;
- h) docks no wider than 8 feet unless a permit is obtained from the Minnesota department of natural resources, boat lifts and mooring structures;
- i) foot bridges over a creek if it does not obstruct passage or block navigation and is permitted by the Minnesota department of natural resources;
- j) beaches;
- k) public fishing piers;
- l) soil stabilization techniques permitted by the Minnesota department of natural resources; and

- m) retaining walls if needed to control existing conditions of erosion as field verified by staff, but only if there is absolutely no other alternative to protect the integrity of the slope. No new retaining wall is allowed below the ordinary high water level.
5. Conditional Uses at or Below the Ordinary High Water Level and within Shore and Bluff Impact Zones.

At or below the ordinary high water level and within shore and bluff impact zones, land may be used for the following only by conditional use permit and only in conformance with the standards specified in section 300.26 of this code:

- a) within shore and bluff impact zones, private and public recreational uses, such as including golf courses, ballfields, playfields, picnic grounds, boardwalks, and impervious trails, ~~non-motorized public water craft landings, marinas, and boat ramps;~~ or
- b) non-motorized public water craft landings, marinas, and boat ramps, ~~private pending and drainage facilities.~~
6. Uses on Lands Outside the Shore and Bluff Impact Zones.

Permitted and conditionally permitted uses on lands outside the shore and bluff impact zones are those uses allowed and regulated by applicable underlying zoning districts.

7. Shoreland District Standards, Based on Classifications.

The following standards apply to all land within the shoreland district based on proximity to the specified classifications:

		General Development (GD)	Recreational Development (RD)	Tributary Creeks (TR)
a)	Minimum Lot Area for riparian lots	22,000 sq.ft.	22,000 sq.ft.	22,000 sq.ft.
b)	Minimum lot area for non-riparian single family homes, R-1	22,000 sq.ft.	22,000 sq.ft.	22,000 sq.ft.
c)	Minimum lot area for non-riparian single family homes, R-2	15,000 sq.ft.	15,000 sq.ft.	15,000 sq.ft.
d)	Minimum lot area for non-riparian duplexes, R-2	20,000 sq.ft.	20,000 sq.ft.	20,000 sq.ft.
e)	Minimum lot area for non-riparian triplexes, R-3	10,890 sq.ft.	10,890 sq.ft.	10,890 sq.ft.
f)	Minimum lot area for non-riparian multi-family residential units, R-3, R-4, R-5	30,000 sq.ft.	30,000 sq.ft.	30,000 sq.ft.
g)	Minimum water line frontage	75 ft	75 ft	75 ft
h)	Elevation of the lowest floor above the OHWL	2 feet	2 feet	2 feet

i)	Minimum setbacks from the OHWL for principal structures, and accessory structures, including decks, patios, tennis courts, sport courts, swimming pools (including the apron of the pool), walls, retaining walls (unless permitted due to existing conditions of erosion <u>as field verified by city staff</u>) and any fence that obstructs lake views such as picket or privacy fence:	50 ft	75 ft	50 ft
	Fences that are 6 feet in height or less and do not obstruct views such as chain link or wrought iron can extend up to the OHWL but not into any adjacent wetland			
j)	Maximum height of structures	35 feet	35 feet	35 feet
	If a variance is requested from this standard the city may consider, in addition to other relevant factors, the following criteria in order to minimize the shoreland impact: 1) proximity to the public water; 2) screening of structures and vehicles as viewed from the water in summer leaf-on conditions; 3) amount of open space; 4) amount and location of water quality treatment systems that are beneficial to the receiving public water; and 5) methods that implement shoreland management strategies to protect the public water, which may include vegetative protection and enhancement, creation of wildlife habitat, or water quality enhancement strategies.			
k)	Maximum impervious surface coverage for the portion of land on a lot that is within 150 feet of OHWL.	30 percent	30 percent	30 percent
l)	Maximum impervious surface coverage for the portion of land on a lot that is beyond 150 feet of the OHWL:	75 percent	75 percent	75 percent
	The city may allow credit for pervious hard surfaces such as pavers or pervious concrete to the extent of the proven infiltration rate for the pervious pavement area. For example if pervious pavers are installed in an area totaling 100 square feet, and the pavers are proven to infiltrate 14 percent of the area, up to 14 square feet may be subtracted from the impervious surface coverage			
m)	Minimum structure setback from top of bluff, when the	30 feet	30 feet	30 feet

	grade of the bluff is at least 30 percent or greater, except for structures built on post footings, stairways and landings			
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8. Shoreland District Standards, General.

The following standards apply to all land in the shoreland district:

a) Water oriented accessory structures:

- 1) must not exceed 120 square feet in size, or 10 feet in height, exclusive of safety rails. Detached decks must not exceed eight feet above grade at any point;
- 2) must be setback from the OHWL 10 feet;
- 3) must meet the standards of sections 300.23 and 300.24;
- 4) must not exceed one per lot;
- 5) must be treated to reduce visibility as viewed from the public water and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer-leaf on conditions;
- 6) must not be designed or used for human habitation and must not contain a water supply or sewage treatment facilities;
- 7) cannot be used principally for water craft storage; and
- 8) may use the roof as a deck with safety rails, but not with enclosed walls or as a storage area.

b) The person proposing any land altering activity on a riparian property, such as building a structure, road or driveway, or grading activity, that will impact a topographic area having an average slope of 12% or more measured over a horizontal distance of 50 feet or more, must demonstrate that the land altering activity will not impact the public water regulated by this section and must;

- 1) demonstrate that soil erosion will not occur as a result of the project activity;
- 2) demonstrate preservation of the existing vegetation to the extent practical; and
- 3) provide screening of structures such as buildings and vehicles as viewed from the water in summer leaf on conditions.

In no instance is land altering activity on a riparian property allowed on a slope averaging 20% or greater if it will have an adverse impact on the public water regulated by this section, such as erosion, loss of vegetation, or loss of screening as viewed from the lake. If the applicant can demonstrate that the land altering activity will not have an adverse impact on the public water then the activity must comply with the section 300.28 subsection 20, the steep slope ordinance. Stairways, landings and permitted retaining walls are exempt from this requirement.

- c) All impervious surface runoff must be treated in accordance with the requirements of the city and appropriate watershed district. Treatment may include site retention, skimmers, weirs, infiltration basins, storm water sedimentation ponds of appropriate scale, or other acceptable methods. Facilities serving this purpose must be properly maintained and serviced by the property owner.
- d) Discharge into the public waters must occur at a rate no greater than the rate allowed by the city engineer in accordance with the city's water resources management plan and appropriate watershed district requirements.
- e) All construction projects must provide erosion and sediment control as required by the city.
- f) No building permit will be issued by the city for the construction or alteration of any principal structure on property adjoining a lake or tributary creek if that structure is not served by the city's sanitary sewer system.
- g) No structure may be placed nearer than 50 feet from the boundary of an unplatted cemetery or significant historic site protected under Minnesota statute section 307.08 unless necessary approval is obtained from the Minnesota state historic preservation office.
- h) Each lot wholly or partially within the shoreland district and created through a subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city must consider susceptibility to flooding, existing wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, near-shore aquatic conditions unstable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or the community.
- i) Roadways, parking areas, driveways and trails must meet the following standards:
 - 1) Where feasible, all roadways, parking areas, driveway areas, trails and any retaining wall if it is structurally integral to the construction of these items must meet the setback requirements established for principal structures. If no feasible placement alternative exists, they must be designed to minimize adverse impacts to the public water and must not

- be constructed in the shore or bluff impact zones except as allowed under subdivision 5 of this section.
- 2) Roadways and drives may cross a public water. Footings for bridges may be allowed in the shore or bluff impact zone if they are designed to minimize adverse impacts to the public water.
 - 3) Vehicles may not be parked in shore or bluff impact zones.
 - 4) Vegetation must be used to screen parking areas when viewed from the water.
- j) Stairways, lifts, and landings must meet the following standards:
- 1) Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas.
 - 2) Stairways and lifts must not exceed six feet in width on residential lots. Wider stairways may be used for commercial properties and public open space recreational properties if approved as part of the site plan.
 - 3) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open space recreational properties if approved as part of the site plan.
 - 4) Canopies or roofs are not allowed on stairways, lifts or landings.
 - 5) Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
 - 6) Facilities such as ramps or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards in items 2) through 5) are met.
- k) Controlled access lots except those that existed prior to March 24, 2008, must meet the following standards:
- 1) Lots intended as controlled accesses to public waters for use by owners of non-riparian lots are permissible if they meet or exceed all of the standards below.
 - 2) They must meet the width and size requirements for single family residential lots and be suitable for the intended uses of controlled access lots.

- 3) They must be jointly owned by all purchasers of lots in one subdivision or by all purchasers of non-riparian lots in one subdivision who are provided riparian access rights on the access lot.
- 4) The maximum number of watercraft docking or mooring at any controlled access lot is limited to six unless the width of the lot (keeping the same lot depth) is increased by one third of the required riparian frontage for every additional dock or moored watercraft.
- 5) Covenants or other legal instruments must be executed, specifying which owners have authority to use the access lot and what activities are allowed. These activities cannot significantly conflict with general public use of the public water.

9. Exceptions to Structure Setback and Impervious Surface Requirements.

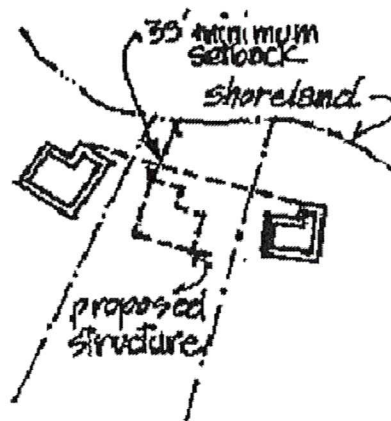
The following are exceptions to the setback and impervious surface requirements for structures:

- a) Setback requirements from the ordinary high water level do not apply to piers, permitted docks, boat lifts, and mooring structures. The location of these structures is controlled by applicable state and local regulations. ~~or docks. The location of piers and docks shall be controlled by applicable state and local regulations.~~
- b) There is no setback from the ordinary high water level or from top of bluff for overhead utility poles and lines that are less than two feet in diameter, underground utility lines and distribution equipment, fences, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that is associated with an essential public service.
- c) There is no setback from the OHWL or from top of bluff for stairways and landings no wider than 6 feet on residential lots and for stairways and landings on commercial properties or public open space recreational properties if approved as part of a site plan.
- d) Shoreland R-1 lots of record existing as of February 12, 1966 may maintain the following reduced setbacks from the OHWL under the following conditions but must comply with all other setbacks:
 - 1) The setback for the principal structure and accessory structures including tennis courts, sport courts, swimming pools (including the apron of the pool), walls, retaining walls (unless permitted due to existing conditions of erosion) and any fence that obstructs lake views such as picket or privacy fence, may be determined by a line drawn from the closest shoreward corners of the two immediately adjacent principal structures, as long as there is a minimum setback of 35 feet for principal structures and accessory structures.

- 2) The setback for an unenclosed or uncovered attached deck or patio may be determined by a line drawn from the closest shoreward corners of the two immediately adjacent principal structures or any attached deck or patio to that principal structure, as long as there is a minimum setback of 25 feet.

If one of the adjacent lots is vacant, the closest shoreward corner of the principal structure on the nearest developed lot past the vacant lot will be substituted for the vacant lot.

Figure 25



- e) In order to qualify for one of the above setback exceptions, the applicant must provide documentation acceptable to the city to verify adjacent and average setbacks.

10. Additional Standards for a Planned Unit Development.

The applicant for a planned unit development (PUD) that is wholly or partially in the shoreland district must meet the following requirements in addition to the requirements of section 300.22:

- a) If the property is already fully developed under its current zoning status but is being redeveloped, the project must:
 - 1) preserve the natural features on the site and comply with the city's ordinances and standards designed to protect the natural environment, including regulation pertaining to steep slopes, trees, wetlands, and floodplains; and
 - 2) provide open space that is at least twenty percent of the total project area. Open space is defined as land in its undeveloped state except that passive recreational uses such as trails or picnic areas may be included in the open space calculation;

- b) If a property is undeveloped or could be further subdivided under its current zoning status, then 50 percent of the natural area must be preserved as designated by the city. This area must be protected by a conservation easement or restrictive covenants;
- c) In the case of either (a) or (b), impervious cover within the PUD cannot exceed 40 percent. All impervious cover must also comply with this section.

11. Alteration of Shoreland.

The removal of natural vegetation within shore and bluff impact zones must be restricted to prevent erosion into public waters, to consume nutrients in the soil and to preserve shoreland aesthetics. Removal of natural vegetation, grading and filling in the shoreland district is subject to the following provisions:

- a) intensive clearing, as defined in this ordinance, of natural vegetation within shore and bluff impact zones is prohibited;
- b) in shore and bluff impact zones, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal structure, to control noxious or invasive vegetation, or to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water - oriented facilities, provided that:
 - 1) structures, vehicles, or other facilities are screened as viewed from the water, assuming summer, leaf-on conditions.
 - 2) existing shading of water surfaces is preserved along tributary creeks; and
 - 3) natural vegetation must be restored during and after all construction projects to retard surface runoff and soil erosion.

The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

- c) any grading, filling or excavation in the shoreland district which will change or diminish the course, current or cross-section of a public water must be approved by the Minnesota Department of Natural Resources.

12. Administration.

The city must notify and supply the Minnesota Department of Natural Resources with plans and information as follows:


- a) notices of public hearings for all variances, and conditional use permits in shoreland districts must be submitted at least 10 days prior to such hearings;
- b) a copy of the final decision regarding variances or conditional use permits must be submitted within 10 days after a decision has been made;

- c) all preliminary plats within the shoreland district must be submitted at least 10 days before the meeting;
- d) all approved final plats must be submitted within 10 days after a decision has been made; and
- e) when a variance, CUP or preliminary plat in the shoreland district is approved after the department of natural resources has formally recommended denial in the hearing record, the notification to the department of natural resources of the approval must also include the findings of the planning commission or city council which supported the approval.

Section 3. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 4. This ordinance is effective the day after publication.

Adopted by the city council of the City of Minnetonka, Minnesota, on March 18, 2019.



Brad Wiersum, Mayor

Attest:



Becky Koosman, Acting City Clerk

Action on this Ordinance:

Date of introduction: Feb. 11, 2019
Date of adoption: March 18, 2019
Motion for adoption: Schack
Seconded by: Calvert
Voted in favor of: Calvert, Schack, Carter, Bergstedt, Wiersum
Voted against:
Abstained:
Absent: Ellingson, Happe
Ordinance adopted.

Date of publication:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on March 18, 2019.

Becky Koosman, Acting City Clerk

City of Minnetonka
14600 Minnetonka Boulevard
Minnetonka, MN 55345

Notice of Adoption of Ordinance No. 2019-06

To whom it may concern:

Notice is hereby given that on March 18, 2019 the Minnetonka City Council adopted Ordinance No. 2019-06, amending Minnetonka City Code Section 300.25, regarding the shoreland overlay district. This ordinance amends the city code sections regarding the shoreland overlay district.

A full copy of the Ordinance is available on the city's web site (www.eminnetonka.com) and may be viewed during regular office hours at the city clerk's office in city hall. A copy may also be obtained by standard or electronic mail.


Becky Koosman, Acting City Clerk